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LACASSE & ASSOCIATES, LLC 1725 DUKE STREET SUITE 650 ALEXANDRIA, VA 22314			FLEARY, CAROLYN FATIMAH	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/928,347	Applicant(s) PESTONI ET AL.	
	Examiner Carolyn F. Fleary	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08/14/2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Objections

1. Claim 23 objected because of the following informalities: The claim indicates "receiving content information" line 7 and then inconsistently refers to this phrases by using "said content information" in lines 8,12 and "said received content information" line 15; Inconsistent use of phrase. Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

- a. Claims 1, 3, 13, and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- i. Claim 1 recites the limitation "said one or more dynamically allocated communication channels" in lines 12-13. There is insufficient antecedent basis for this limitation in the claim.
- ii. Claim 3 recites the limitation "collected content" in line 4. There is insufficient antecedent basis for this limitation in the claim.
- iii. Claim 23 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the phrase "computer usable medium" is unclear. This makes the claim scope uncertain. The specification (pg 17 line 10-11) distinctly indicates that an essential element "memory" stores all programming and data. The claim fails to interrelate this

Art Unit: 2152

essential element and as such fails to point out and distinctly claim the invention.

(See MPEP 2172.01)

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

a. Claim 22 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

i. In regards to claim 22, the e-commerce model being claimed is non statutory.

(1) Several applicable definitions of a model exist: 1) One serving as an example to be imitated or compared 2) A mathematical representation of a device or process used for analysis and planning. 3) A schematic description of a system, theory, or phenomenon that accounts for its known or inferred properties and may be used for further study of its characteristics. A model is an abstract idea or a conception of an invention and therefore is classified as non-functional descriptive material. This type of "descriptive material" is non-statutory because it is claimed as descriptive material per se. (See MPEP 2106 [R-2] IV, B.1)

Claims not specifically mentioned are rejected to by virtue of their dependency.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. **Claims 1 – 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Noll et al. (US 2002/0054087) in view of Hosken (US 6,438,579)

i. Claim 1 is indefinite because it recites the limitation "said one or more dynamically allocated communication channels" in lines 12-13. For the purposes of the following rejection this will be interpreted as "communication channels".

ii. In regards to claim 1, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, one or more steps of said method performed over a network (abstract, [0039] lines 6-16), said method comprising:

- Dynamically allocating said bandwidth (abstract lines 1-3) to a plurality of communication channels, each of said channels retaining one or more instances of content (abstract lines 7-10, [0041] lines 1-3, [0066] lines 8-13);
- recursively receiving user preferences of content information, said preferences comprising one or more of: selection requests for specific content, evaluations of existing content, and evaluations of potential content ([0063] lines 1-6, 9-13);
- dynamically retaining within a selected channel a collection of specific instances of content based on an a collation of said preferences

(([0066] lines 8-13, [0063] lines 1-6), said collection placed on an allocated communication channel ([0041] lines 1-3) over a period of time; ([0078] lines 8-12, [0079] lines 1-12)

- dynamically allocating user access to said one or more dynamically allocated communication channels based on a best match with said preferences ([0039] lines 6-16, [0044], lines 10-17, [0081-0083]).

Noll et al. is silent on the content information comprising collation of preferences from multiple users.

Hosken et al. teaches a collaborative filtering system for recommending content to a user based on comparison between the user and other users preferences of content and between content databases that store rating data for content provided by users (abstract lines 1-8). The preferences (recommendations) are tailored to personalized interests through steps which include presenting content to a user for review and consideration of potential interest, monitoring the consideration of the content items implied through the user directed navigation among existing content and specific user content request (col 2 lines 36-44). The collected preference data is used to develop a user weighted data set reflective of the user's relative consideration of the content; and evaluation of the user weighted data set in combination with the content filter to identify a set of content for presenting to a user (col 2 lines 44-50). One of ordinary skill in the art at the time of invention would have realized that it is advantageous for the system of Noll et al. to have content information comprising collation of preferences from multiple users in order to increase the efficient of the system providing recommendations that the users will enjoy and

Art Unit: 2152

appreciate; as well as being consistent with a users personal interests (col 1 lines 31-41, 23-27)

iii. In regards to claim 2, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1,

Noll et al. fail to teach:

- wherein said evaluations of existing and potential content represent user preferences based on voting for or against the content.

Hosken further teaches a users ability to provide ratings (i.e. votes) regarding the content recommendations indicating the degree to which the user preferred the recommended content. Ratings constitute stored implicit and explicit ratings of data content provided by the user (abstract lines 6-8). Similarities between the user rating of content, existing content, and other users' ratings are correlated (abstract lines 11-13). Based on the correlations, a subset of users is selected that are then used to provide recommendations of content to the use (abstract lines 14-17). Content is presented to a user for review and consideration (abstract lines 17-20). Hosken continues to teach user preference based on voting for or against. This process includes recommending content to a users; the user then is able to review and consider the items. Votes for can include user selection of a particular content item and request for additional information, length and nature of consideration of content (col 2 lines 36-50, col 3 lines 21-25). Votes against include user not selecting a recommended content item. Voting can also be derived from polls, rankings and ratings of content (col 9

Art Unit: 2152

lines 38-41) This review and consideration (i.e. voting) is monitored by the system to develop weighed data set reflective of the users consideration of content (col 2 lines 36-50, col 6 lines 28-31).

It would have been obvious to one of ordinary skill in the art at time of invention to have the Noll et al.'s system of evaluation based on voting in order to incorporate high confidence information that is incorporated into group and individual collaborative data as well as to develop group and personal interest profiles that produce recommendations that have a high probability of being appreciated by the user (abstract lines 12-17, col 3 lines 20 –33).

iv. Claim 3 is indefinite because line 4 recites, “collected content” which lacks appropriate antecedent basis. For the purposes of the following art rejection “collected content” will be interpreted to mean said collection of specific instances of content” from claim 1 line 9.

v. In regards to claim 3, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, Noll et al. fails to teach wherein said evaluations of potential content comprises

- introduction of new content which, based upon a comparison with said collected content, appears to be a high probability match and said evaluations are used to validate or invalidate said match.

Hosken teaches the developments collaborative content data based on evaluations of group and individual interests (col 3 lines 20-33) that are stored in a database (col 4 lines 43- 48). The stored data is used to provide recommendations for users (i.e. matching) (col 4 lines 48-50). User profile content data is also used for modifying (i.e. invalidate) and expanding (i.e. validate) on individualized recommendations (col 4 lines 50- 55). In this manner, the system provides qualifying information reflecting the strength or weight of content relations (i.e. matching) and may take multiple approaches to generating a recommendation set (i.e. high probability matching) to produce the content set present to the user (col 6 lines 35-46,57-60). It would have been obvious one of ordinary skill in the art at the time of invention to utilize Hosken's evaluation technique to effectively be capable of providing content recommendations suited to the particular interest of a user. Thus eliminating the lack of confidence, which would reduce the utility of the system, in content recommendations. (col 1 lines 42-58)

vi. In regards to claim 4, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1,

Noll et al. fails to teach:

- wherein said instances of content comprise selected songs.

Hosken teaches media content, which includes music samples, song tracks (col 4, lines 14- 25) that can be selected (col 3 lines 20-22). One of ordinary skill in the art at time of the invention would have been motivated to

Art Unit: 2152

include in Noll et al. content as comprising of selected songs in order to include a form of media entertainment that is capable of being enjoyed and appreciate which can result in purchase when transmitted to a user (col 1 lines 42- 45, col 2 lines 17-20).

vii. In regards to claim 5, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said distribution of content is distributed across the internet to a user ([0091] lines 1-5) Noll et al. is silent on the distribution of songs.

- wherein said distribution of content comprises distributing selected songs across the internet to a user.

Hosken teaches media content, which includes music samples, song tracks (col 4, lines 14- 25) that can be selected (col 3 lines 20-22). One of ordinary skill in the art at time of the invention would have been motivated to include in Noll et al. content as comprising of selected songs in order to include a form of media entertainment that is capable of being enjoyed and appreciate which can result in purchase when transmitted to a user (col 1 lines 42- 45, col 2 lines 17-20) operating a computer system with a network access supported interface such as a conventional web browser application, to access and navigate applications supporting the presentation of songs that sent from a content storage location (See Hosken col 4, lines 28- 43).

Art Unit: 2152

i. In regards to claim 6, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said distribution of content comprises distributing selected songs across the Internet and said communication channels comprise streaming audio channels. ([0058] lines 3-5 [0060] lines 12-14)

Noll et al. is said distribution of content comprises distributing selected songs:

Hosken teaches media content, which includes music samples, song tracks (col 4, lines 14- 25) that can be selected (col 3 lines 20-22). One of ordinary skill in the art at time of the invention would have been motivated to include in Noll et al. content as comprising of selected songs, that are on the streaming audio packed channels so that the songs are played back to the user as quickly as possible without lengthy download time, in order to include a form of media entertainment that is capable of being enjoyed and appreciated by the user and can result in purchase (col 1 lines 42- 45, col 2 lines 17-20).

viii. In regards to claim 7, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1

ix. Noll et al fails to disclose wherein said distribution of content, comprises:

- Distributing selected electronic content to a user from any of: web distribution centers, cable television systems, and, satellite systems.

Hosken discloses teaches content distributed to requestor from one or more industry databases, third party databases (col 5 lines 62-66, col 6 lines 1-

5); the user having the ability to access and navigate through the content presented by a server system via a computer system with network access supported interface (i.e. web browser) (col 4 lines 32-48). One of ordinary skill in the art at time of the invention would recognize the advantage of the Noll et al. system utilizing web distribution systems in order to fulfill the content requests (col 6 lines 1-5) of a collaborative system that reflect the choice of users with highly diverse content interests (col 3 lines 5-10).

x. In regards to claim 8, Noll, discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim I, wherein said distribution of content comprises distributing selected electronic content comprising any of:

- Video ([0054] lines 8-9), software, personal ads, news stories ([0060] lines 12-18) restaurant ratings, evaluating advertisement, and political propositions including matching candidates and issues.

xi. In regards to claim 9, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1,

Noll et al. fails to teach wherein said step of allocating user access to one or more dynamically allocated communication channels comprises

- dynamically providing said access based on a match of a specific user's collaborative preferences with that of the collaborative preferences of the allocated channel.

xii. In regards to claim 9, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said step of allocating user access to one or more dynamically allocated communication channels comprises

- dynamically providing said access based on a match of a specific user's collaborative preferences ([0044] lines 14-17) with that of the preferences of the allocated channel ([0055] [0056]).

Noll et al. fails to teach that the preferences of the allocated channel are collaborative.

Hosken teaches a user may rate a piece of content (implicit/explicit, see table II & III). These indications or ratings are stored for general use in connection with the production of recommendation sets for all users and specifically in regard to productions for the respective users. The ratings are stored in user profiles (col 6, lines 10-17) and also in-group profiles (col 6 lines 31-33). The recommendation set, stored in a content database, represents the user's collaborative preferences on which new user content is compared against (col 6 lines 33-43). In addition similar user profiles are compared for the purposes of rating new content (col 7, lines 3-9, 39-49). Hosken also teaches collaborative cluster tables that are associated collaborative preferences for a particular type or grouping of content (i.e. Dance, Heavy metal, rock music) based on group collaborative data. A specific user profile file is matched to the preferences of the cluster table, indicating that the user is likely to like the clustered group. The cluster table/group contains collaborative content (i.e.

Art Unit: 2152

music) (col 15 lines 29-31, 54-66, col 16 lines 16-20). One of ordinary skill in the art at time of the invention would be motivated to implement Noll et al.'s matching of users collaborative preferences with channels that are based on collaborative preferences in order for the system to support the delivery of recommendations based on users interest (col 14 lines 26-29).

xiii. In regards to claim 10, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1,

- wherein a new user is mapped to an initial content channel by building a new user profile. ([0064] lines 1-5, [0066] lines 3-6, [0079] lines 1-12, [0081] lines 6-19, Claim 1, 7)

Noll et al. is silent on:

- building a new user profile comprising the steps of presenting a plurality of content selections to the user and registering positive and negative votes of said content selections

Hosken teaches the explicit and implicit ratings (i.e. votes) from users are stored. The users profile contains the implicit and explicit (Table II & III) content interests of the user. The user profile is used to determine the new content items that are recommended to the user. These recommendations are presented to the user for further exploration. (Abstract, col 2 lines 36-44, col 5 lines 19-26, col 6 lines 5-17). The user navigates the content and may request samples (i.e. votes for/implicit positive rating) (figure 1a, col 5, lines 41-61). Hosken continues to teach user preference based on positive and negative votes. This process

includes recommending content to a users; the user then is able to review and consider the items. Positive votes can include user selection of a particular content item and request for additional information, length and nature of consideration of content (col 2 lines 36-50, col 3 lines 21-25). Negative votes include user not selecting a recommended content item. This voting is monitored by the system to develop weighed data set reflective of the users consideration of content (col 2 lines 36-50, col 6 lines 28-31).

It would have been obvious to one of ordinary skill in the art at time of invention to have the Noll et al.'s system of evaluation based on voting in order to incorporate high confidence information that is incorporated into group and individual collaborative data as well as to develop group and personal interest profiles that produce recommendations that have a high probability of being appreciated by the user (abstract lines 12-17, col 3 lines 20 –33).

xiv. In regards to claim 11, Noll et al. discloses a collaborative content programming system, one or more elements of said system located across networks ([0036]), said system comprising:

- a content database (Figure 1 #122), said content database retained within one or more storage locations across said network (Figure 17, [0054]);
- a content engine Figure 1 #12), said content engine collecting specific instances of content retained in said content database into channels (abstract lines 7-10, [0007] lines 8-18,[0039] lines 6-16);

Art Unit: 2152

- an available channel selector, said selector providing access to said channels to content requesters; ([0007] lines 25-30, [0044] lines 7-17, [0076])
- said content engine determining a best match to connect each of said content requesters to one or more of said available channels based on specific content requests ([0054] lines 15-17, [0056] , [0067-0068], [0077]);
- said content engine aggregating said specific content requests ([0040] lines 5-11, [0045]) and requestor evaluations of specific content, and ([0007] line 30-32, [0054])
- said content engine dynamically modifying said collected specific instances of content retained in said content database into channels based on said aggregating ([0054],[0079])

Noll et al is silent on

- said content engine dynamically modifying said collected specific instances of content retained in said content database

Hosken teaches a system, which comprises a server system, which contains content databases that store both Implicit and explicit content processed by the content engine are stored (figure 1A, figure 2) . The content databases contain a content filter for identifying and providing qualifying information for content items in the database, which produce, contain recommendations. Content recommendations are tailored to a user that includes steps of presenting content items via a network to a user for review and consideration (col 2 lines 36-44).

Hosken discloses the content engine (figure 2-referral system) that provides

Art Unit: 2152

content recommendations and combines content data collected from other users, in a collaborative fashion, which is used to modify and expand on individual content recommendations (col 4 lines 43-55).

One of ordinary skill in the art at time of the invention would have clearly recognized that it is advantageous to continue to modify the content retain in the content database in order to refine the user profiles as to the interest of the user and deepening the search for content items that are of particular interest to the user (col 6 lines 33-43, col 13 lines 20-24).

xv. In regards to claim 12, Noll et al. discloses a collaborative content programming system, as per claim 11,

Noll et al. fails to teach:

- wherein said evaluations comprise voting on existing and potential content, said voting representing user preferences.

Refer to claim 2 above discussion on what Hosken teaches.

xvi. In regards to claim 13, Noll et al. discloses a collaborative content programming as per claim 12

Noll et al. fails to teach wherein said evaluations of potential content comprises:

- introduction of new content which, based upon a comparison with said collected content, appears to be a high probability match and said evaluations are used to validate or invalidate said match.

Refer to claim 3 discussions above on what Hosken teaches.

Art Unit: 2152

xvii. In regards to claim 14 Noll et al. discloses collaborative content programming system, as per claim 11,

Noll et al. fails to teach:

- wherein said content comprises selected songs.

Refer to claim 4 discussions above on what Hosken teaches.

xviii. In regards to claim 15, Noll et al. discloses collaborative content programming system, as per claim 11, wherein said content is broadcast across the Internet ([0039], [0060] lines 12-21, [0066] lines 1-7).

Noll et al. teaches content is broadcasted on channels over Internet Service Providers, which provides access to the Internet, to allow for real time distribution of content to users ([0006], [0039]).

ii. In regards to claim 16 Noll et al. discloses a collaborative content programming system, as per claim 11, wherein said content is broadcast ([0039], [0060] lines 12-21, [0066] lines 1-7) across the Internet and said channels comprise streaming audio channels ([0058] lines 3-5 [0060] lines 12-14)

Noll et al. teaches content is broadcasted on channels over Internet Service Providers, that provides access to the Internet, from which content is easily distributed users in real time, presented to the user as quickly as possible without lengthy download time ([0006], [0039]) and prevents time shifted presentation content transmitted to user computer or Internet access devices ([0091]).

Art Unit: 2152

iii. In regards to claim 17 Noll et al. discloses A collaborative content programming system, as per claim 11, wherein said content is broadcast ([0039], [0060] lines 12-21, [0066] lines 1-7) to a requestor from web distribution centers. Noll et al. is silent on broadcast to requestor from web distribution centers.

Refer to claim 7 discussions above for what Hosken teaches.

iv. In regards to claim 18, Noll et al. discloses collaborative content programming system, as per claim 11, wherein said content is broadcast across said channels ([0039], [0060] lines 12-21, [0066] lines 1-7) Noll et al. is silent on broadcast across said channels from any of:

- web distribution centers, cable television systems, and satellite systems.

Refer to claim 17 discussions above on what Hosken teaches.

v. In regards to claim 19, Noll et al. discloses a collaborative content programming system, as per claim 11, wherein said content comprises any of:

- Video ([0054] lines 8-9), software, personal ads, news stories ([0060] lines 12-18) restaurant ratings, evaluating advertisement, and political propositions including matching candidates and issues.

vi. In regards to claim 20, Noll et al. discloses collaborative content programming system, as per claim 11, wherein said evaluations additionally include request for omissions of specific content ([0079]).

Noll et al. teaches a system that allows for the removal of undesirable content and also filters content based on user preferences; allowing only the content of interest to be presented to the user ([0079]). The system issues commands that activate or deactivate content which define the composition of the content on the channels ([0068] lines 9-15).

In regards to claim 21, claim 11 as modified above, Noll et al. discloses a collaborative content programming system, as per claim 11, wherein said content engine comprises at least data mining algorithms ([0104] [106]).

Noll teaches data mining for use in tracking and gaining information concerning users personal habits, preferences, and opinions in exchange for credits, which may be redeemed for content purchases.

vii. Claim 22 is non-statutory under 35 U.S.C. 101. The following claim rejection is being made with assumptions that the non-statutory matter will be corrected.

viii. In regards to claim 22, Noll et al. discloses an e-commerce model [0110] for collaborative content programming with electronic access to user modified channels of content (figure 17-24, [0049] lines 5-10, [0050-53], [0071],) said model comprising:

- a collection of individual content selections, said collection retained within computer storage ([0054] lines 15-21) and accessible across computer networks [0039];
- computer software ([0039] lines 14-16, [0048]), said software tracking ([0007] lines 30-32) and aggregating both individual user's requests based

on specific content selections and evaluations of specific selections from said collection said aggregated requests and evaluations retained locally or remotely in associated computer storage ([0054]);

- one or more channels, said channels dynamically collecting specific content based on said aggregated requests and evaluations, ([0039], [0054] [0081])
- said computer software assigning users to a best matching channel ([0048], [0067], [0070]), said channels accessible remotely by said users across said networks [0091], and
- revenue collection based on any of: subscription fees, per content fee, advertising, and content purchase options. [fig 19, fig 20, [0095-0098] [104])

Noll et al. fails to teach evaluation aggregation of the requests from multiple users to come up with the content collection.

Hosken teaches evaluation aggregation of the requests from users to come up with the content collection as described under the rejection of claim 1. It would have been obvious to one of ordinary skill in the art at time of the invention for the same reasons as that noted under claim 1 rejection above.

ix. Claim 23 is indefinite. For the purposes of the following art rejection this claim is being interpreted as being limited to hardware and comprising memory having computer readable program code embodied therein.

Art Unit: 2152

x. In regards to claim 23 Noll et al. discloses, an article of manufacture ([0046] lines 1-4) comprising a computer usable medium (0046] line 10) having computer readable program code embodied therein ([0053] lines 5-20) which selective filters and distributes content based on combined user specific and collaborative inputs ([0046-47], [0053]) said computer readable program code comprising:

- computer readable program code for allocating a communication channel for one or more instances of content (abstract lines 7-10, [0041] lines 1-3, [0066] lines 8-13)
- computer readable program code for recursively receiving content information from multiple users, said content information comprising one or more of: selection requests for specific content, evaluations of existing content, and evaluations of potential content ([0063] lines 1-6, 9-13);
- computer readable program code for collecting specific instances of content based on said content information [0063], said collection placed on an allocated communication channel ([0041] lines 1-3] over a period of time; ([0078] lines 8-12, [0079] lines 1-12) and
- computer readable program code for allocating user access to one or more allocated communication channels based on said received content information ([0039] lines 6-16, [0044], lines 10-17, [0081-0083])

Noll et al. fails to teach aggregation of the requests from multiple users to come up with the content collection.

Hosken teaches evaluation aggregation of the requests from multiple users to come up with the content collection as described under rejection of claim 1. It would have been obvious to one of ordinary skill in the art at time of the invention for the same reasons as that noted under the rejection of claim 1.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Krishnan (US 6073124): Incorporation of electronic commerce information into an online purchasing application.
- Bernard et al. (US 5918213): Remote previewing and purchasing of music, video, software, and other multimedia products
- Sheena et al. (US 6049777): Collaborative filtering based method for recommending an item to a user
- Chislenko et al. (US 6092049): Recommendation of items using automated collaborative filtering and feature-guided automated collaborative filtering
- Bergh et al. (US 6112186): Exchange of user information and opinion using automated collaborative filtering
- Lang et al. (US 6775664): Integrated content-based and collaborative/adaptive feedback queries

Art Unit: 2152

- Lang et al. (US 6308175): Integrated collaborative/content-based filter structure employing selectively shared, content-based profile data to evaluate information entities in a massive information network
- Hanson et al. (US 6507865): Method and system for group content collaboration
- Drosset et al. (US 6662231): Subscriber-based audio service over a communication network
- Picker et al. (US 6748395): Dynamic play list of media
- De Bonet et al. (US 6609096): Overlapping audio elements in a customized personal radio broadcast
- Herz (US 6460036): Providing customized electronic newspapers and target advertisements
- Sahai et al. (US 6594699): Capability based multimedia streaming over a network

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn F. Fleary whose telephone number is (703) 305 -4792. The examiner can normally be reached on 8:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/928,347
Art Unit: 2152

Page 24

Carolyn F Fleary
Examiner
Art Unit 2152

A handwritten signature in black ink, appearing to read 'Dung C. Dinh', with a stylized, flowing script.

Dung C. Dinh
Primary Examiner